

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 19, 2005

SENATE BILL

No. 1086

Introduced by Senators Migden and Chesbro

February 22, 2005

An act to amend Section 6217 of the Public Resources Code, ~~and to amend Section 4 of Chapter 138 of the Statutes of 1964, First Extraordinary Session,~~ relating to the State Lands Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1086, as amended, Migden. State Lands Commission.

(1) Under existing law, with specified exceptions, revenue, money, and remittances received by the State Lands Commission are required to be applied to specified obligations in a prescribed order. Existing law provides for these provisions to become inoperative on July 1, 2006, and to be repealed January 1, 2007. *Existing law requires the Controller, after specified obligations are met, to transfer the balance of the revenue, money, and remittances to the Resources Trust Fund for transfer annually to designated accounts.*

~~This bill would extend the inoperative date of these provisions to July 1, 2011, and the repeal date of these provisions to January 1, 2012. The bill would require \$8,000,000 of these funds to be transferred to the State Coastal Conservancy for allocation for coastal projects, as specified. This provision would become inoperative on July 1, 2010, and would be repealed on January 1, 2012.~~

~~Existing~~

(2) *Existing* law provides that as of July 1, 2006, with specified exceptions, all revenue, money, and remittances received by the State Lands Commission are to be deposited in the General Fund and made available each fiscal year for specified purposes.

This bill would change that date to July 1, 2012.

(2)

(3) Existing law provides for the distribution of oil and gas revenues from tide and submerged lands granted to the City of Long Beach between the city and the state.

~~This bill would prohibit the city of Long Beach from retaining out of oil revenue any money for deposit in a reserve fund to be used for future tidelands oil administrative costs or future costs related to the extraction or disposition of oil or other hydrocarbons, including but not limited to, future costs for the plugging and abandonment of wells and removal of production facilities, even if the future costs are certain to occur and can reasonably be estimated.~~

The

~~This bill would require the City of Long Beach, on or before March 1, 2006, to pay to the State Lands Commission as remaining oil revenue from the Long Beach tidelands free from the public trust for commerce, navigation, and fisheries, all money, including both principal and interest, in a specified abandonment reserve fund that the city created in 1999. The bill would require the Controller to deposit these and other specified funds, not exceeding \$300,000,000, in the Oil Trust Account, which the bill would establish in the General Fund. The bill would authorize the funds in the account to be used by the State Lands Commission, subject to specified conditions, to finance the costs of well abandonment, pipeline removal, facility removal, remediation, and other facility removal costs.~~

~~The bill would require the State Lands Commission, on or before January 1, 2007, to report to the Director of Finance and the chairpersons of the appropriate legislative committees regarding a forecast of when the Long Beach tidelands oil fields will be abandoned and require environmental mitigation, and an estimate of the likely costs to mitigate the effects of extraction in the fields.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6217 of the Public Resources Code, as amended by Section 3 of Chapter 326 of the Statutes of 1998, is amended to read:

6217. With the exception of revenue derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and Sections 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property that has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenue, money, and remittances received by the commission under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and those funds shall be applied to the following obligations in the following order of priority:

(a) To the General Fund, the revenue necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act enacted by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for that purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to Section 6875.

(b) To the California Housing Trust Fund, each fiscal year, the amount of two million dollars (\$2,000,000).

(c) After meeting the obligations in subdivisions (a) and (b), the Controller shall transfer the balance of all such revenue, money, and remittances received by the commission pursuant to this section in each fiscal year to the Resources Trust Fund.

The money in the Resources Trust Fund shall be collected for the purposes of, and held in trust for, preserving and protecting the natural and recreational resources of the state and, for this purpose, the Controller shall annually transfer the following sums from the Resources Trust Fund to the following accounts and funds in the following order of priority:

(1) Eight million dollars (\$8,000,000) to the Salmon and Steelhead Trout Restoration Account in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Fish and Game for expenditure for the recovery of coho salmon, other species of salmon, and anadromous trout pursuant to Section 6217.1 of this code and Chapter 8 (commencing with Section 2760) of Division 3 of the Fish and Game Code.

(2) Two million two hundred thousand dollars (\$2,200,000) to the Marine Life and Marine Reserve Management Account, which is hereby created in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Fish and Game for expenditure for marine life management pursuant to Section 6217.2.

(3) Ten million dollars (\$10,000,000) to the State Parks System Deferred Maintenance Account, which is hereby created in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Parks and Recreation for deferred maintenance expenses.

(4) Eight million dollars (\$8,000,000) to the State Coastal Conservancy for allocation for coastal projects, including projects described in paragraph (2) of subdivision (l) of Section 5096.310, which shall be consistent with subdivision (a) of Section 31163.

~~(4)~~

(5) The remainder to the Natural Resources Infrastructure Fund which is an account in the Resources Trust Fund. The money in the Natural Resources Infrastructure Fund shall be available for expenditure, upon appropriation by the Legislature, for the purposes of preserving and protecting the natural and recreational resources of the state. Priority for the use of the money in the Natural Resources Infrastructure Fund shall be given to the following:

(A) For expenditure by the Department of Fish and Game, upon appropriation by the Legislature, for environmental review and monitoring, consultation with lead agencies, recommending mitigation measures, and enforcement related activities pursuant to Division 13 (commencing with Section 21000).

(B) For expenditure, upon appropriation by the Legislature, for the purposes of land acquisition in Orange County and San Diego

County pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code.

(C) For expenditure to meet the requirements of Section 2796 of the Fish and Game Code that are not met pursuant to Section 2795 of the Fish and Game Code, upon appropriation by the Legislature.

(D) For expenditure for nonpoint source pollution control programs of the State Water Resources Control Board and the California Coastal Commission, upon appropriation by the Legislature.

The Controller shall transfer any unencumbered balances remaining in the Salmon and Steelhead Trout Restoration Account, the Marine Life and Marine Reserve Management Account, the State Parks Deferred Maintenance Account, and the Natural Resources Infrastructure Fund on June 30 of each year to the General Fund.

~~This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is~~

(a) (1) Except for paragraph (4) of subdivision (c), this section shall become inoperative on July 1, 2006. Paragraph (4) of subdivision (c) of this section shall become inoperative on July 1, 2010.

(2) This section is repealed as of January 1, 2012, unless a later enacted statute that becomes effective on or before January 1, 2012, deletes or extends the date on which it is repealed.

SEC. 2. Section 6217 of the Public Resources Code, as amended by Section 24 of Chapter 240 of the Statutes of 2003, is amended to read:

6217. (a) With the exception of revenue derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and Sections 8551 to 8558, inclusive, and Section 6404 (insofar as the proceeds are from property that has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit all revenue, money, and remittances received by the commission under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, in the General Fund. Out of those funds deposited in the General Fund,

1 sufficient moneys shall be made available each fiscal year for the
2 following purposes:

3 (1) Payment of refunds, authorized by the commission, out of
4 appropriations made for that purpose.

5 (2) Payment of expenditures of the commission as provided in
6 the annual Budget Act.

7 (3) Payments to cities and counties of the amounts specified in
8 Section 6817 for the purposes specified in that section, out of
9 appropriations made for that purpose.

10 (4) Payments to cities and counties of the amounts agreed to
11 pursuant to Section 6875, out of appropriations made for that
12 purpose.

13 (b) This section shall become operative on July 1, 2012.

14 ~~SEC. 3. Section 4 of Chapter 138 of the Statutes of 1964,~~
15 ~~First Extraordinary Session, as amended by Section 1 of Chapter~~
16 ~~246 of the Statutes of 1982, is amended to read:~~

17 ~~Sec. 4. (a) Until and including the last day of the calendar~~
18 ~~month in which this act becomes effective, the City of Long~~
19 ~~Beach shall account for and pay over to the state oil revenue and~~
20 ~~dry gas revenue in accordance with all the provisions of Chapter~~
21 ~~29 of the Statutes of 1956, First Extraordinary Session, as~~
22 ~~amended by Chapter 1398 of the Statutes of 1963.~~

23 ~~(b) Commencing on the first day of the calendar month~~
24 ~~following the date on which this act becomes effective, the City~~
25 ~~of Long Beach shall account for and pay over monthly to the~~
26 ~~state oil revenue and dry gas revenue free from the public trust~~
27 ~~for navigation, commerce, and fisheries and from the uses, trusts,~~
28 ~~conditions and restrictions that were imposed by the acts of 1911,~~
29 ~~1925, and 1935, and the city shall retain, subject to the provisions~~
30 ~~of this act, the amounts or percentages of oil revenue hereinafter~~
31 ~~provided.~~

32 ~~(c) The City of Long Beach shall account for and pay over~~
33 ~~monthly to the State Lands Commission for and on behalf of the~~
34 ~~state all dry gas revenue thereafter received by the city.~~

35 ~~(d) The City of Long Beach shall retain out of oil revenue each~~
36 ~~month an amount equal to all subsidence costs thereafter~~
37 ~~expended by the city and an amount equal to the money~~
38 ~~thereafter expended by the city in administering oil and gas~~
39 ~~operations on the Long Beach tidelands, to the extent, if any, that~~
40 ~~the amount is not deductible under subdivision (b) of Section 1.~~

1 The city shall not retain out of oil revenue any money for deposit
2 in a reserve fund to be used for future tidelands oil field
3 administrative costs or future costs related to the extraction or
4 disposition of oil or other hydrocarbons, including, but not
5 limited to, future costs for the plugging and abandonment of
6 wells and removal of production facilities, even if the future costs
7 are certain to occur and can reasonably be estimated. The city
8 shall pay out of oil revenue to the State Lands Commission for
9 and on behalf of the state each month an amount equal to the
10 money thereafter expended by the state, as determined by the
11 Director of Finance, in administering this act and Chapter 29 of
12 the Statutes of 1956, First Extraordinary Session, including the
13 costs of the audits by the Auditor General pursuant to Section 10,
14 insofar as that amount pertains to the Long Beach tidelands. The
15 oil revenue remaining after deducting and paying these amounts
16 shall hereafter be referred to as "remaining oil revenue."

17 (e) All advance payments attributable to the undeveloped
18 portion of the Long Beach tidelands shall be divided equally
19 between the City of Long Beach and the state. The City of Long
20 Beach shall account for and pay over monthly to the State Lands
21 Commission for and on behalf of the state all other remaining oil
22 revenue, except for the percentages or amounts of remaining oil
23 revenue specified in the following schedule, which percentages
24 or amounts shall be retained by the City of Long Beach:

25 (1) Until and including December 31, 1967, 50 percent.

26 (2) During the calendar year 1968, 45 percent or the total
27 amount of nine million dollars (\$9,000,000) during that year,
28 whichever is less.

29 (3) During the calendar year 1969, 40 percent or the total
30 amount of nine million dollars (\$9,000,000) during that year,
31 whichever is less.

32 (4) During the calendar year 1970, 35 percent or the total
33 amount of nine million dollars (\$9,000,000) during that year,
34 whichever is less.

35 (5) During the calendar year 1971, 30 percent or the total
36 amount of nine million dollars (\$9,000,000) during that year,
37 whichever is less.

38 (6) During the calendar year 1972, 25 percent or the total
39 amount of nine million dollars (\$9,000,000) during that year,
40 whichever is less.

1 ~~(7) During the calendar year 1973, and during each calendar~~
2 ~~year thereafter, to and including 1979, 20 percent or the total~~
3 ~~amount of nine million dollars (\$9,000,000) during each year,~~
4 ~~whichever is less.~~

5 ~~(8) During the calendar year 1980, and during each calendar~~
6 ~~year thereafter, to and including 1982, 20 percent or the total~~
7 ~~amount of eight million dollars (\$8,000,000) during each year,~~
8 ~~whichever is less.~~

9 ~~(9) During the calendar year 1983, 20 percent or the total~~
10 ~~amount of seven million dollars (\$7,000,000) during that year,~~
11 ~~whichever is less.~~

12 ~~(10) During the calendar year 1984, 20 percent or the total~~
13 ~~amount of six million dollars (\$6,000,000) during that year,~~
14 ~~whichever is less.~~

15 ~~(11) During the calendar year 1985, 20 percent or the total~~
16 ~~amount of five million dollars (\$5,000,000) during that year,~~
17 ~~whichever is less.~~

18 ~~(12) During the calendar year 1986, 20 percent or the total~~
19 ~~amount of four million five hundred thousand dollars~~
20 ~~(\$4,500,000) during that year, whichever is less.~~

21 ~~(13) During the calendar year 1987, 20 percent or the total~~
22 ~~amount of three million four hundred thousand dollars~~
23 ~~(\$3,400,000) during that year, whichever is less.~~

24 ~~(14) During the calendar year 1988, and each calendar year~~
25 ~~thereafter, the total sum of one million dollars (\$1,000,000)~~
26 ~~during each year.~~

27 ~~If the execution of the contractors' agreement is delayed~~
28 ~~beyond December 31, 1964, the city shall retain 50 percent of~~
29 ~~remaining oil revenue, as provided in paragraph (1) of the above~~
30 ~~schedule, until and including the last day of the third calendar~~
31 ~~year following the calendar year in which the contractors'~~
32 ~~agreement is executed, and the amounts or percentages of~~
33 ~~remaining oil revenues to be retained by the city as specified in~~
34 ~~paragraphs (2) to (14), inclusive, of the above schedule shall be~~
35 ~~deferred accordingly. If the total aggregate amount of remaining~~
36 ~~oil revenue (including advance payments) retained by the city on~~
37 ~~and after the effective date of this act should reach the sum of~~
38 ~~two hundred thirty-eight million dollars (\$238,000,000) at any~~
39 ~~date prior to January 1, 1988, the city shall retain during the next~~
40 ~~calendar year following the date at which that total aggregate~~

1 sum is reached, and during each calendar year thereafter, the total
2 sum of one million dollars (\$1,000,000) out of remaining oil
3 revenue during each year, in lieu of any amounts that might
4 otherwise be specified in the above schedule in respect to those
5 years.

6 (f) ~~The contractors' agreement shall include a provision for a~~
7 ~~"reserve for subsidence contingencies." This reserve shall~~
8 ~~accumulate at the rate of two million dollars (\$2,000,000) a year,~~
9 ~~exclusive of interest thereon, commencing from and after the first~~
10 ~~day of the second month following termination of the right to~~
11 ~~receive any advance payment from the field contractor and shall~~
12 ~~continue for a period of 20 years thereafter. The amounts so~~
13 ~~accumulated, but not the interest thereon, shall be treated as a~~
14 ~~cost of oil production under the contractors' agreement and shall~~
15 ~~be deductible in computing oil revenue.~~

16 ~~The amounts so accumulated, together with interest, shall be~~
17 ~~impounded by the city in a separate fund and shall be invested in~~
18 ~~bond issued by the state or if those bonds are unavailable, then in~~
19 ~~securities of the United States. the fund shall be available to~~
20 ~~indemnify and hold harmless the City of Long Beach, the state,~~
21 ~~and any and all contractors under the contractors' agreement~~
22 ~~from claims, judgments, and costs of defense, arising from~~
23 ~~subsidence alleged to have occurred as a result of operations~~
24 ~~under the agreement. The fund may also be used for the purpose~~
25 ~~of paying subsidence costs or for conducting repressuring~~
26 ~~operations in the event there is no oil revenue or the oil revenue~~
27 ~~is insufficient to pay these costs.~~

28 ~~The fund shall remain impounded until the time that the city~~
29 ~~and the state shall jointly determine that there is no longer any~~
30 ~~hazard of those claims or judgments or that there is no potential~~
31 ~~danger of subsidence, whichever is later. However, if the city and~~
32 ~~the state are unable to agree upon that joint determination, the~~
33 ~~State Lands Commission may make application to a court of~~
34 ~~competent jurisdiction for determination by the court as to~~
35 ~~whether it is necessary to continue the impoundment of the fund.~~

36 ~~Upon termination of that impoundment, the money so~~
37 ~~impounded, including all interest and earnings thereof, shall be~~
38 ~~distributed to the city in addition to the amounts specified under~~
39 ~~subdivision (c), and the state, as follows: an amount equal to 50~~
40 ~~percent of all subsidence costs approved and disbursed by the~~

1 city from the effective date of this act to and including December
2 31, 1968, shall be distributed and paid to the city; and the balance
3 shall be paid and distributed to the state. Nothing herein
4 contained shall constitute a waiver of sovereign immunity by the
5 state; nor shall anything herein contained affect in any manner
6 the rights and obligations of the City of Long Beach, the state, or
7 the contractors under the contractors' agreement, or any of them;
8 as against any other person or persons, relative to claims,
9 judgments, or liability arising from subsidence of the land
10 surface.

11 ~~SEC. 4.—~~

12 *SEC. 3. On (a) As of January 1, 2006, the City of Long Beach*
13 *shall not retain out of state oil revenue from the Long Beach*
14 *tidelands any money for deposit in a reserve fund to be used for*
15 *future state abandonment costs.*

16 *(b) On or before March 1, 2006, the City of Long Beach shall*
17 *pay to the State Lands Commission as remaining oil revenue*
18 *from the Long Beach tidelands free from the public trust for*
19 *commerce, navigation, and fisheries; all money, including both*
20 *principal and interest, in the abandonment reserve fund that the*
21 *city created in 1999 and that was the subject of the litigation in*
22 *State of California ex rel. California State Lands Commission v.*
23 *City of Long Beach (2005) 125 Cal.App.4th 767.*

24 *(c) There is hereby established in the General Fund the Oil*
25 *Trust Account*

26 *(d) The Controller shall deposit in the account the funds paid*
27 *to the State Lands Commission pursuant to subdivision (b).*

28 *(e) Subject to subdivision (f), on the last day of each month*
29 *beginning in July 2006, the Controller shall also transfer to the*
30 *account two million dollars (\$2,000,000) or 50 percent of the*
31 *remaining oil revenue, as described in subdivision (d) of Section*
32 *4 of Chapter 138 of the Statutes of 1964, First Extraordinary*
33 *Session, as amended by Section 1 of Chapter 246 of the Statutes*
34 *of 1982, whichever is less.*

35 *(f) The total amount deposited in the account shall not exceed*
36 *three hundred million dollars (\$300,000,000).*

37 *(g) The funds in the account may be used by the State Lands*
38 *Commission to finance the costs of well abandonment, pipeline*
39 *removal, facility removal, remediation, and other costs*
40 *associated with the removal of oil and gas facilities from the*

1 *Long Beach tidelands oil fields that are not the contractual*
2 *responsibility of the contractor or other parties.*

3 *(h) The State Lands Commission shall only expend the funds*
4 *deposited in the account for the purposes of subdivision (g) when*
5 *all of the following conditions are met:*

6 *(1) The City of Long Beach adopts a resolution declaring that*
7 *the oil revenue described in subdivision (d) of Section 4 of*
8 *Chapter 138 of the Statutes of 1964, First Extraordinary Session,*
9 *as amended by Section 1 of Chapter 246 of the Statutes of 1982,*
10 *is insufficient to fund the costs described in subdivision (g).*

11 *(2) The City of Long Beach transmits to the State Lands*
12 *Commission a copy of the resolution and all necessary*
13 *accompanying documentation, including a plan for expenditures*
14 *for mitigation.*

15 *(3) The State Lands Commission reviews the material*
16 *provided pursuant to paragraph (2) and notifies the Controller,*
17 *within 60 days of receiving the material specified in paragraph*
18 *(2), that the fields have been abandoned and mitigation can*
19 *begin. The State Lands Commission shall provide the controller*
20 *with a schedule for the necessary expenditures for distribution of*
21 *funds from the account to the City of Long Beach.*

22 *SEC. 4. On or before January 1, 2007, the State Lands*
23 *Commission shall report to the Director of Finance and the*
24 *chairpersons of the appropriate legislative committees both of*
25 *the following:*

26 *(a) A forecast of when the Long Beach tidelands oil fields will*
27 *be abandoned and require environmental mitigation.*

28 *(b) An estimate of the likely costs to mitigate the effects of*
29 *extraction in the Long Beach tidelands oil fields.*